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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

No. 238

THE UNITED STATES OF AMERICA,  
*Petitioner,*  
*vs.*

STATE OF NEW YORK.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

MEMORANDUM FOR THE STATE OF NEW YORK.

JOHN J. BENNETT, JR.,  
*Attorney General of the  
State of New York.*

HENRY EPSTEIN,  
*Solicitor General of the  
State of New York,  
Counsel for Respondent.*

**SUPREME COURT OF THE UNITED STATES :**

**OCTOBER TERM, 1941**

**No. 238**

**In the Matter of INDEPENDENT AUTOMOBILE FORWARDING  
CORPORATION, Bankrupt.**

**THE UNITED STATES OF AMERICA,**  
*Petitioner,*  
*vs.*

**STATE OF NEW YORK.**

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.**

**MEMORANDUM FOR THE STATE OF NEW YORK.**

The State of New York does not oppose the petition for a writ of certiorari in this case.

The court below held that the claim of the United States for taxes imposed under the Social Security Act, Title VIII, Section 801, was not entitled to priority under § 64 (a) (4) of the Bankruptcy Act, since such taxes were a debt owing from the bankrupt and were not a tax levied upon

the bankrupt. While it is believed that the conclusion reached below is correct, the State of New York desires that the question be reviewed by this Court. The question presented is important since there are several matters pending in the State of New York involving the identical question.

JOHN J. BENNETT, JR.,  
*Attorney General of the  
State of New York.*

HENRY EPSTEIN,  
*Solicitor General of the  
State of New York.*

5th August, 1941.

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